STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Michael & Lori Eason, Petitioner-Appellants, **v.** **Decatur County Board of Review,** Respondent-Appellee.	**ORDER** **Docket No. 13-27-0341** **Parcel No. 13.11.301.015**

On December 5, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants Michael and Lori Eason were self-represented. County Attorney Lisa Jeanes represented the Board of Review. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Michael and Lori Eason are the owners of property located at 623 South Walnut Street, Lamoni, Iowa. The real estate was classified residential on the January 1, 2013, assessment and valued at $172,161, representing $11,177 in land value and $160,984 in improvement value.

Easons filed a protest to the Decatur County Board of Review. On the petition form, Easons only filled out the ground that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1). After visiting the Easons' property, the Board of Review reduced the assessment to $168,180 representing $11,177 in land value and $157,003 in improvement value. The Board of Review's minutes indicate it reduced the assessment because it

found only 88% of the basement was finished as compared to the original assessment that valued the basement as fully finished.

Easons then appealed to this board. They believe the property's fair market value is $149,106, representing $11,177 in land value and $137,929 in improvement value.

The Easons now contend they originally raised the claim of over assessment to the Board of Review. § 441.37(1)(a)(2). Lori Eason testified she read a written statement to the Board of Review when its members visited her home as part of the protest process. She submitted this statement as Exhibit 15. This document references a market value claim. The Board of Review asserts the issue was never properly raised in the protest. Board of Review member Ed Coffey testified he did not recall Eason reading the statement to the Board of Review; nor did he recall receiving a copy of the statement from Eason when the Board of Review visited the property.

We note the Easons' written statement appears nowhere in the Certified Record from the Board of Review. Further, the statement was not dated nor specifically addressed to the Board of Review. However, Lori Eason testified she read the statement to the Board of Review while it was in session. Following recent Iowa case law, it would appear that if this Board finds Lori Eason's testimony true, the Easons may have sufficiently raised a claim of over assessment. *See M.C. Holdings, L.L.C. v. Davis County Board of Review*, 830 N.W.2d 325 (Iowa 2013); *Allen v. Dallas County Board of Review*, 2013 WL 4010240 (Iowa Ct. App.) (unpublished). In *Allen*, a taxpayer's alleged oral amendment at a Board of Review hearing should have been considered by the board of review. We note, however, *Allen* has been submitted to the Iowa Supreme Court for further review. Following the existing case law, and acting with an abundance of caution, we will address the Easons' market value claim as if it had been properly raised.

According to the property record card, the Easons' property is a one-story, frame home built in 2000. It has 1649 square feet of above-grade living area with a full basement that is 88% finished. As

previously noted, the basement was reported as 100% finished on original assessment and changed by the Board of Review. Additionally, it has a 528 square-foot, attached garage; a 168 square-foot open porch; and a 252 square-foot wood deck. The property is of good quality (grade 3-5) in good condition. The subject site is 0.93 acres.

Lori Eason testified the subject property was purchased in an arms-length transaction in August, 2011 for $154,000. The purchase included four lots, of which three are not improved. The Board of Review valued the improvements at $157,003 but Easons contend the value should be $137,929. The Easons do not contest the allocation of $11,177 in land value.

Lori Eason stated they were surprised to see the difference in assessed values of the homes in their neighborhood. They feel the assessments are inconsistent and not equitable. To support their equity claim, Easons provided property record cards for properties they considered comparable. We find many of the properties are not appropriate for an assessment/sales ratio analysis, as they sold prior to 2012, and this analysis typically compares *prior year sale prices* (2012 sales) or established market values to the *current year's* (2013) *assessment* to determine the ratio. We summarize the properties that sold in 2012 below.

Address	Year Built	Year Sold	Sale Price	2013 Assessed Value	Sales Ratio	Grade	Above Grade Sq. Ft.	Assessed Value Per Sq. Ft.
Subject	2000	2011	N/A	$168,180	N/A	3-5	1649	$101.99
710 E 2nd St	1994	2012	$117,500	$110,213	93.8%	4+10	1430	$ 77.07
305 NW 12th Dr	2010	2012	$145,000	$101,651	70.1%	4+5	1116	$ 91.01
308 NW 12th Dr	2003	2012	$185,000	$145,342	78.6%	3-10	1680	$ 86.51

Reviewing the three sales, we first find 305 NW 12th Drive is not a comparable property to the subject as it is 500 square feet smaller, which can be a significant difference for homes between approximately 1100 and 1600 square feet. Furthermore, although Easons' calculations did not include it, 710 E 2nd Street has significantly less basement finish than the subject property. Therefore, we find

it less comparable to the subject. This leaves the Easons with only one property that is potentially comparable to determine an assessment/sale ratio, and more than one comparable is necessary to establish the ratio.

Further, simply comparing the assessed value per-square-foot is insufficient evidence for an equity claim in this case because there are numerous differences between the properties including size, grade, condition, age, and amenities.

Regarding her claim of over-assessment, Eason asserts there are not many sales of comparable property that take place in Decatur County each year. She stated there are approximately 100 to 110 residential sales annually with only about 10 with values of over $100,000. She provided sales lists for several years to support this statement.

The Easons also submitted an appraisal for the subject property dated July 19, 2011. The appraisal was completed by Julie Owen from Rally Appraisal LLC from West Des Moines. The appraisal was completed for Bank of America and showed a $154,000 value, using the sales comparison approach. It also concludes a value of $174,167 by the cost approach. The primary problem with this appraisal is that it concludes a value for all four parcels the Easons purchased as unit. Additionally, the appraisal's effective date is approximately 16 months prior to the assessment date at issue. For these reasons, we give the appraisal no consideration.

Eason testified she inquired about having another appraisal completed for the current assessment date. They were quoted a fee of approximately $600 from Crystal Moor of A1 Appraisals, Inc. from Knoxville. Because they believed it was cost-prohibitive, the Easons did not commission the appraisal.

Edward Coffey, a member of the Decatur County Board of Review testified for the Board of Review. He stated he had visited the subject property twice, once during a protest by the previous owner and once since the Easons purchased the property. He stated the Board of Review reduced the

value of the subject property for the previous owner. The Board of Review also lowered the assessed value for the 2013 assessment because it found the area of finished basement was 88% complete instead of the 100%.

James Fleming, the Decatur County Assessor also testified for the Board of Review. Fleming examined twenty of the twenty-three properties Eason submitted as equity comparables. (Exhibit A). He excluded three properties because they were two-story improvements compared to the subject's one-story design.

Exhibit A is a spreadsheet of the properties Fleming submitted, as well as the subject property. Fleming subtracted the assessed value of the basement finish from properties with that feature then divided the remaining improvement value by the total living area (TLA) of the above-grade finish. This resulted in a range of assessed values per-square-foot of $53.33 to $114.28 with an average of $75.75. He believes this demonstrates the subject's assessed value per-square-foot of $75.43 is equitable. Ultimately, like the Easons' analysis, we find the methodology of simply comparing the assessed value per-square-foot is insufficient evidence for an equity claim in this case because there are many differences between the properties that remain unaccounted for such as grade, site size, or other improvements such as outbuildings and amenities like patios or decks.

Eason also provided a written statement expressing what she believes are errors in Fleming's analysis. Because we do not find the analysis relevant for this equity claim, we will not dwell on Eason's criticisms.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board

determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

> "(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 579-580. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id*. The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

In this case, to prevail on an equity claim, Easons would have had to compare prior year's sales prices (in this case 2012) to the current year (2013) assessments. Although Easons provided numerous properties for comparison, ultimately, we find only one sale that is reasonably comparable. An equity analysis under *Maxwell* requires more than one comparable property as well as evidence of the subject property's actual value. The Iowa Supreme Court has interpreted "representative number of comparable properties" to be more than one property. *Maxwell v. Shiver*, 257 Iowa 575, 581, 133 N.W.2d 709, 712 (1965). This "statutory requirement is both a jurisdictional prerequisite and an evidentiary requirement for bringing a claim of inequitable or discriminatory assessment before the board." *Montgomery Ward Dev. Corp. by Ad Valorem Tax, Inc. v. Cedar Rapids Bd. of Review*, 488 N.W.2d 436, 441 (Iowa 1992). Furthermore, the word "shall" as used in the statute makes the listing of comparable properties mandatory as failing to do so would "directly frustrate[] the sole function of the requirement, which is to enable the board to make a preliminary determination on the matter of equitability of assessment." *Id.* Furthermore, Easons did not assert different assessing methods were used to value their property than were used for similar properties. For these reasons, Easons fail to provide sufficient evidence to support their assertion that they are inequitably assessed.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Easons submitted an appraisal of the subject property with an effective date of

July 19, 2011. The appraisal concluded an opinion of value of $154,000. However, this opinion valued multiple parcels the Easons purchased in one transaction. Because the appraisal valued multiple parcels and it is not sufficient to subtract the assessed value of the other parcels from the appraised value, we give it no consideration. Ultimately, the Easons fail to provide sufficient evidence of the correct value of the subject property.

THE APPEAL BOARD ORDERS the January 1, 2013 assessment of the Eason's property located at 623 South Walnut Street, Lamoni, Iowa, and determined by the Board of Review is affirmed.

Dated this 30th day of January, 2014.

Stewart Iverson, Presiding Officer

Jacqueline Rypma, Board Member

Karen Oberman, Board Member

Copies to:
Michael and Lori Eason
623 S. Walnut Street
Lamoni, Iowa 50140
APPELLANT

Lisa Hynden Jeanes
207 N. Main Street
Leon, Iowa 50144
ATTORNEY FOR APPELLEE